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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/455,102 12/06/99 PERSSON

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IM52/0518

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EXAMINER

1 LIVERING, R

ART UNIT PAPER NUMBER

1712  
DATE MAILED:

05/18/01

*19*

Please find below and/or attached an Office communication concerning this application or proceeding.

**Commissioner of Patents and Trademarks**

**Office Action Summary**Application No.  
09/455,102Applicant(s)  
PERSON ET AL.

Examiner

LOVERING

Group Art Unit

1712

**—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—****Period for Reply**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication .
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

**Status**

AND

 Responsive to communication(s) filed on FEB. 27, MAR 19, APR-12, 25 & 30, 2001. This action is **FINAL**. Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 1 1; 453 O.G. 213.**Disposition of Claims** Claim(s) 1-33 AND 35-97 is/are pending in the application.

Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

 Claim(s) 1-13, 26-33, 35-63, 68-87 AND 90-95 is/are allowed. Claim(s) 14-18-21, 23, 64-67, 88 AND 96 is/are rejected. Claim(s) 17, 22, 24, 25, 89 AND 97 is/are objected to. Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.**Application Papers** See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948. The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved. The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner. The specification is objected to by the Examiner. The oath or declaration is objected to by the Examiner.**Priority under 35 U.S.C. § 119 (a)-(d)** Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d). All  Some\*  None of the CERTIFIED copies of the priority documents have been received. 69 978500924 received in Application No. (Series Code/Serial Number) \_\_\_\_\_. received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

**Attachment(s)** Information Disclosure Statement(s), PTO-1449, Paper No(s). 10 Interview Summary, PTO-413 Notice of Reference(s) Cited, PTO-892 Notice of Informal Patent Application, PTO-152 Notice of Draftsperson's Patent Drawing Review, PTO-948 Other \_\_\_\_\_**Office Action Summary**

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### **DETAILED ACTION**

1. The indicated allowability of claim 14, 18-21, 23 and 64-67 is withdrawn based on reconsideration of Moffett et al 5,279,807 of record Rejection(s) based thereon follow.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 14, 18-21, 23 and 64-67 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Moffett et al, 5,279,807 of record. The instantly-claimed aqueous polysilicate microgels and process for preparing them are anticipated by Moffett et al (esp. Ex. 1; col. 1, lines 27-30; col. 2, lines 64-67; col. 3, lines 50-58; and col. 4, lines 39-48), or are at least clearly within the purview of Moffett et al, and thus would have been obvious therefrom to one having ordinary skill in the art. While Moffett et al may not begin their preparative process with initially added "active silica", it is present during their aging step in which mixing would occur (col. 3, lines 50-58, esp. lines 54 and 55). As to claim 20 herein, the SiO<sub>2</sub> concentration in Ex. 1 of Moffett et al is 15% before dilution.

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5. Claims 88 and 96 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 88 and 96 are indefinite as to scope and confusing in reciting 'alkali metal silicate" in line 2, when they purport to be drawn to the sodium silicate embodiment.

6. Claims 17, 22, 24, 25, 89 and 97 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. The following is a statement of reasons for the indication of allowable subject matter: The prior art of record including Moffett et al above does not disclose or fairly suggest the aqueous polysilicate microgel(s) or process(es) for preparing them or the drainage dewatering aids covered by the claims not rejected herein over the prior art of record

8. In applicants' amendment filed June 12, 2000, holes have been punched through the first line of claims 50, 59 and 69. Applicants are required to verify the presumption that claim 50 depends upon claim 47 and to state upon which claim, claim 69 depends.

9. U.S. Patent No. 4,285,919, listed on the attached for PTO -1449 has been considered and made of record.

10. As the date of the attached interview summary, April 25, 2001, the examiner considered claims 1-33 and 35-81 to be allowable.

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11. Any inquiry concerning this communication should be directed to Examiner Lovering at telephone number (703) 308-0443.

Lovering/dh

May 15, 2001

Corrected

May 16, 2001

*Richard D. Lovering*  
RICHARD D. LOVERING  
PRIMARY EXAMINER  
GROUP 1200 1700